

BAY COUNTY  
OFFICE OF PUBLIC DEFENDERS

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November 3, 2011

Dear House Judiciary Committee Members:

I am an attorney who has been practicing as a Bay County Public Defender for over 26 years. I am the immediate Past Chair of the Criminal Law Section. I have been the representative of Criminal Defense Attorneys of Michigan (CDAM) to the Criminal Law Section since 2004. I am a member of the Michigan Public Defense Task Force that is seeking to improve the court-appointed defender system in our state.

As an attorney who handles an annual caseload of approximately 350 to 400 felony files per year, I am extremely familiar with the caseload demands on our Judges in Bay County. I am writing to provide you with my concerns regarding the Judicial Resources Recommendations. Consistently, studies have shown that we should eliminate one judge. It appears that the loss most logically would be in our District Court. The most recent study put the number at 1.7 judges. However, the JRR recommendation was for a reduction of 2 judges. This study, itself, and other information not included in the study, does not support that number.

The study indicates that treatment courts and specialty courts were considered in this analysis. However, the study itself gives no weight to the judicial time required for these courts. At the time of this study, our county had two treatment courts and one specialty court. Since the time of this study, our county has doubled from two to four the number of treatment courts that we offer. As a public defender, I am aware of the critical need in our county for this treatment intervention. It requires the direct involvement and time of our Judges and as a result must be given

great weight when considering our judicial resources.

The reduction in our caseload has not been steady. The study shows that it has fluctuated. It may decline for a few years but then increase again. Most of the decline has been in District Court. That decline is the result of a substantial decrease in traffic tickets which require very little in the way of time from our District Court Judges and do not involve our Circuit Court Judges at all.

The reduction in traffic tickets is due to the layoff of police officers as a result of the economy. It is our expectation that those numbers will increase as the economy and property values improve and police officers return to duty.

What is significant is that the study shows that in all but one area, the Circuit Court caseload has increased not decreased. We have also had a substantial increase in Circuit Court trials over the last three years. In fact, the number of trials has almost doubled.

The JRR includes law clerks and quasi-judicial officers in their study. However, since the completion of the study, Bay County has eliminated one Law Clerk position. Bay County has also consolidated two magistrate (Quasi-Judicial) positions. The Law Clerks are assigned to the Circuit Court Judges but sometimes assist the other judges.

The JRR study itself, the factors not given weight in the study, and subsequent developments especially in our additional treatment courts and increase in trials, support the position that the appropriate reduction would be one district court judge in the manner described in HB 5104, Section 8139(2).

Yours truly,

A handwritten signature in cursive script, appearing to read "Ken Malkin".

Kenneth M. Malkin